BILATERAL

AGREEMENT (WITH PROTOCOL AND EXCHANGE OF NOTES) REVISING THE THE AGREEMENT BETWEEN THE REPUBLIC OF THE PHILIPPINES AND UNITED STATES OF AMERICA CONCERNING TRADE AND RELATED MATT...

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Note: The Agreement entered into force, January 1, 1956. It was proclaimed by the President, Proc. No. 216, S. 1955.

Reference: This Agreement is also published In 238 UNTS, p 264. The Presidential proclamation of the Agreement is published in 51 O.G. 6037.

The President of the Republic of the Philippines and the President of the United States of America, mindful of the close economic ties between the people of the Philippines and the people of the United States during many years of intimate political relations, and desiring to enter into an agreement in keeping with their long friendship, which will be mutually beneficial to the two peoples and will strengthen the economy of the Philippines so as to enable that Republic to contribute more effectively to the peace and prosperity of the free world, have agreed to the following Articles:

ARTICLE I

1. The ordinary customs duty to be collected on United States articles as defined in Subparagraph (e) of Paragraph 1 of the Protocol, which during the following portions of the period from January 1, 1956, to July 3, 1974, both dates inclusive, are entered, or withdrawn from warehouse, in the Philippines for consumption, shall be determined by applying the following percentages of the Philippines duty as defined in Subparagraph (h) of Paragraph 1 of the Protocol:

(a) During the period from January 1, 1956, to December 31, 1958, both dates inclusive, twenty-five per centum.

(b) During the period from January 1, 1959, to December 31, 1961, both dates inclusive, fifty per centum.

(c) During the period from January 1, 1962, to December 31, 1964, both dates inclusive, seventy-five per centum.

(d) During the period from January 1, 1965, to December 31, 1973, both dates inclusive, ninety per centum.

(e) During the period from January 1, 1974, to July 3, 1974, both dates inclusive, one hundred per centum.

2. The ordinary customs duty to be collected on Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol, other than those specified in the Schedule to Paragraph 2 of Article II, which during such portions of such period are entered, or withdrawn from warehouse, in the United States for consumption, shall be determined by applying the following percentages of the United States duty as defined in Subparagraph (g) of Paragraph 1 of the Protocol:

(a) During the period from January 1, 1956, to December 31, 1958, both dates inclusive, five per centum.

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(b) During the period from January 1, 1958, to December 31, 1961, both dates inclusive, ten per centum.

(c) During the period from January 1, 1962, to December 31, 1964, both dates inclusive, twenty per centum.

(d) During the period from January 1, 1965, to December 31, 1967, both dates inclusive, forty per centum.

{e) During the period from January 1, 1968, to December 31, 1970, both dates inclusive, sixty per centum,

(f) During the period from January 1, 1971, to December 31, 1973, both dates inclusive, eighty per centum.

(g) During the period from January 1, 1974, to July 3, 1974, both dates inclusive, one hundred per centum.

3. Customs duties on United States articles, and on Philippine articles, other than ordinary customs duties, shall be determined without regard to the provisions of Paragraphs 1 and 2 of this Article, but shall be subject to the provisions of Paragraph 4 of this Article. 4. With respect to United States articles imported into the Philippines, and with respect to Philippine articles imported into the United States, no duty on or in connection with importation shall be collected or paid in an amount in excess of the duty imposed with respect to like articles which are the product of any other foreign country, or collected or paid in any amount if the duty is not imposed with respect to such like articles. As used in this Paragraph, the term "duty" includes taxes, fees, charges, or exactions, imposed on or in connection with importation, but does not include internal taxes or ordinary customs duties.

5. With respect to products of the United States which do not come within the definition of United States articles, imported into the Philippines, no duty on or in connection with importation shall be collected or paid in an amount in excess of the duty imposed with respect to like articles which are the product of any other foreign country, or collected or paid in any amount if the duty is not imposed with respect to such like articles which are the product of any other foreign country. As used in this Paragraph the term "duty" includes taxes, fees, charges, or exactions, imposed on or in connection with importation, but does not include internal taxes.

6. With respect to products of the Philippines, which do not come within the definition of Philippine articles, imported into the United States, no duty on or in connection with importation shall be collected or paid in an amount in excess of the duty imposed with respect to like articles which are the product of any other foreign country (except Cuba), or collected or paid in any amount if the duty is not imposed with respect to such like articles which are the product of any other foreign country (except Cuba.). As used in this Paragraph the term "duty" includes taxes, fees, charges, or exactions, imposed on or in connection with importation, but does not include internal taxes.

7. Notwithstanding the provisions of Paragraph 1 of this Article, the Philippines shall impose a temporary special import tax, in lieu of the present tax on the sale of foreign exchange, on any article or product imported or brought into the Philippines, irrespective of source; provided that such special levy is applied in a non-discriminatory manner pursuant to Paragraphs 4 and 5 of this Article, that the initial tax is at a rate no higher than the present rate of the foreign exchange tax, and that the tax shall be progressively reduced at a rate no less rapid than that specified in the following Schedule. If, as a result of applying this Schedule, the total revenue from Philippine customs duties and from the special import tax on goods coming from the United States is less in any calendar year than the proceeds from the exchange tax on such goods during the calendar year 1955, no reduction need be made in the special import tax for the next succeeding calendar year, and, if necessary to restore revenues collected on the importation of United States goods to the level of the exchange tax on such goods in calendar year 1955, the Philippines may increase the rate for such succeeding calendar year to any previous level provided for in this Schedule which is considered to be necessary to restore such revenues to the amount collected from the exchange tax on United States goods in calendar year 1955. Rates for the special import levy in subsequent years

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shall be fixed in accordance with the schedules specified in this Article except as the Philippine Government may determine that higher rates are necessary to maintain the above-mentioned level of revenues from the importation of United States goods. In this event, such rate shall be determined by the Philippine Government, after consultation with the United States Government, at a level of the Schedule calculated to cover any anticipated deficiency arising from the operation of this provision.

SCHEDULE FOR REDUCING SPECIAL IMPORT TAX

(a) After December 31, 1956, ninety per centum.

(b) After December 31, 1957, eighty per centum.

(c) After December 31, 1958, seventy per centum.

(d) After December 31, 1959, sixty per centum.

(e) After December 31, 1960, fifty per centum.

(f) After December 31, 1961, forty per centum.

(g) After December 31, 1962, thirty per centum.

(h) After December 31, 1963, twenty per centum.

(i) After December 31, 1964, ten per centum.

(j) On and after January 1, 1966, nil.

ARTICLE II

1. During the period from January 1, 1956, to December 31, 1973, both dates inclusive, the total amount of the articles falling within one of the classes specified in Items A and A-l of the Schedule to this Paragraph, which are Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol, and which, in any calendar year, may be entered, or withdrawn from warehouse, in the United States for consumption, shall not exceed the amounts specified in such Schedule as to each class of articles. During the period from January 1, 1956, to December 31, 1973, both dates inclusive, the total amount of the articles falling within the class specified in Item B of the Schedule to this Paragraph which are the product of the Philippines, and which, in any calendar year, may be entered, or withdrawn from warehouse, in the United States for consumption, shall not exceed the amount specified in such Schedule as to such class of articles. During the period from January 1, 1974, to July 3, 1974, both dates inclusive, the total amounts referred to in the preceding sentences of this Paragraph shall not exceed one-half of the amount specified in such Schedule with respect to each class of articles, respectively. The establishment herein of the limitations on the amounts of Philippine raw and refined sugar that may be entered, or withdrawn from warehouse, in the United States for consumption, shall be without prejudice to any increases which the Congress of the United States might allocate to the Philippines in the future. The following Schedule to Paragraph 1 shall constitute an integral part thereof:

SCHEDULE OF ABSOLUTE QUOTAS

ITEMS CLASSES OF ARTICLES AMOUNTS

Items

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Classes of Articles

Amounts

A

Sugars.....

952,000 short tons

A-1

of which not to exceed.....

56,000 short tons

may be refined sugars, meaning "direct-consumption sugar" as defines in Section 101 of United States which is set forth in part as Annex I to this Agreement.

B

Cordage, including yarns, twines (including binding twine described in Paragraph

1622 of the Tariff Act of 1930 of the United States, as amended, which is set forth as Annex II to this Agreement), cords, cordage, rope, and cable, tarred or untarred, wholly or in chief value of manila (Abaca) or other hard fiber....

6,000,000 lbs.

2. Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol falling within one of the classes specified in the items included in the Schedule to this Paragraph, which, during the following portions of the period from January 1, 1956, to December 31, 1973, both dates inclusive, are entered, or withdrawn from warehouse, in the United States for consumption, shall be free of ordinary customs duty, in quantities determined by applying the following percentages to the amounts specified in such Schedule as to each such class of articles:

(a) During each of the calendar years 1956 to 1958, inclusive, ninety-five per centum.

(b) During each of the calendar years 1959 to 1961, inclusive, ninety per centum.

(c) During each of the calendar years 1962 to 1964, inclusive, eighty per centum.

(d) During each of the calendar years 1965 to 1967, inclusive, sixty per centum.

(e) During each of the calendar years 1968 to 1970, inclusive, forty per centum.

(f) During each of the calendar years 1971 to 1973, inclusive, twenty per centum.

(g) On and after January 1, 1974, nil.

The following Schedule to Paragraph 2, shall constitute an integral part thereof:

SCHEDULE OF TARIFF QUOTAS

Items Classes of Articles Amounts

Items

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Classes of Articles

Amounts

A

Cigars (exclusive of cigarettes, including wrappers) .....

200,000,000 cigars

B

Scrap tobacco and stemmed and unstemmed filler tobacco described in

Paragraph 602 of the Tariff Act of 1930 of the United States, as amended, which is set forth as Annex 111 to this Agreement .....

6,500,000

C

Coconut Oil .....

200,000 long tons

D

Buttons of pearl or shell .....

850,000 gross

The quantities shown in the Schedule to this Paragraph represent base quantities for the purposes of computing the tariff-free quota and are not absolute quotas. Any such Philippine article so entered, or withdrawn from warehouse, in excess of the duty-free quota provided in this Paragraph shall be subject to one hundred per centum of the United States duty as defined in Subparagraph (g) of paragraph 1 of the Protocol.

ARTICLE III

1. Except as otherwise provided in Article II or in Paragraph 2 of this Article, neither country shall impose restrictions or prohibitions on the importation of any article of the other country, or on the exportation of any article to the territories of the other country, unless the importation of the like article of, or the exportation of the like article to, all third countries is similarly restricted or prohibited. If their country imposes quantitative restrictions on the importation or exportation of any article in which the other country has an important interest and if it makes allotments to any third country, it shall afford such other country a share proportionate to the amount of the article, by quantity or value, supplied by or to it during a previous representative period, due consideration being given to any special factors affecting the trade in such article.

2. (a) Notwithstanding the provisions of Paragraph 1 of this Article, with respect to quotas on United States Articles as defined in Subparagraph (e) of Paragraph 1 of the Protocol or with respect to quotas on Philippines articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol (other than the articles for which quotas are provided in Paragraph 1 of Article 11) a quota may be established only if—

(1) The President of the country desiring to impose the quota, after investigation, finds and proclaims that, as

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the result of preferential treatment accorded pursuant to this Agreement, any article of the other country is being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers like or directly competitive articles; or

(2) The President of the country desiring to impose the quota finds that such action is necessary to forestall the imminent threat of, or to stop, a serious decline in its monetary reserves, or, in the event its monetary reserves are very low, to achieve a reasonable rate of increase in its reserves.

(b) Any quota imposed for any twelve-month period under (a): (1) above for the purpose of protecting domestic industry shall not be less than the amount determined by the President of the importing country as the total amount of the articles of such class which, during the twelve months preceding entry into effect of the quota, was entered, or withdrawn from warehouse, for consumption, after deduction of the amount by which he finds domestic production can be increased during the twelve-month period of the quota, or if the quota is established for any period other than a twelvemonth period, it shall not be less than a proportionate amount.

(c) Each Party agrees not to apply restrictions so as to prevent unreasonably the importation of any description of goods in minimum commercial quantities, the exclusion of which would seriously impair regular channels of trade, or restrictions which would prevent the importation of commercial samples, or prevent compliance with patent, trademark, copyright, or similar procedures.

(d) Any quota established pursuant to this Paragraph shall not continue in effect longer than necessary to achieve the purposes for its imposition, at which time the President of the country imposing the quota, following investigation, shall find and proclaim that the conditions which gave rise to the establishment of such quota no longer exist. 3. Either country taking action pursuant to the provisions of this Article shall give notice to the other country as far in advance as may be practicable, and shall afford it an opportunity to consult in respect of the proposed action. It is understood that this right of consultation does not imply that the consent of the other country to the establishment of the quota is needed in order for the quota to be put into effect.

ARTICLE IV

1. With respect to articles which are products of the United States coming into the Philippines, or with respect to articles manufactured in the Philippines wholly or in part from such articles, no internal tax shall be—

(a) Collected or paid in an amount in excess of the internal tax imposed with respect to like articles which are the product of the Philippines, or collected or paid in any amount if the internal tax is not imposed with respect to such like articles;

(b) Collected or paid in an amount in excess of the internal tax imposed with respect to like articles which are the product of any other foreign country, or collected or paid in any amount if the internal tax is not imposed with respect to such like articles.

Where an internal tax is imposed with respect to an article which is the product of a foreign country to compensate for an internal tax imposed (1) with respect to a like article which is the product of the Philippines, or (2) with respect to materials used in the production of a like article which is the product of the Philippines, if the amount of the internal tax which is collected and paid with respect to the article which is the product of the United States is not in excess of that permitted by paragraph 1(b) of Article IV such collection and payment shall not be regarded as in violation of the first sentence of this Paragraph.

2. With respect to articles which are products of the Philippines coming into the United States, or with respect to articles manufactured in the United States wholly or in part from such articles, no internal tax shall be—

(a) Collected or paid in an amount in excess of the internal tax imposed with respect to like articles which are the product of the United States, or collected or paid in any amount if the internal tax is not imposed with

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respect to such like articles;

(b) Collected or paid in an amount in excess of the internal tax imposed with respect to like articles which are the product of any other foreign country, or collected or paid in any amount if the internal tax is not imposed with respect to such like articles.

Where an internal tax is imposed with respect to an article which is the product of a foreign country to compensate for an internal tax imposed (1) with respect to a like article which is the product of the United States, or (2) with respect to materials used in the production o£ a like article which is the product" of the United States, if the amount of the internal tax which is collected and paid with respect to the article which is the product of the Philippines is not in excess of that permitted by Paragraph 2(b) of Article IV such collection and payment shall not be regarded as in violation of the first sentence of this Paragraph. This Paragraph shall not apply to the taxes imposed under Sections 4591, 4812, or 4831 of the Internal Revenue Code of the United States which are set forth in part as Annexes IV, V, and VI of this Agreement.

3. No processing tax or other internal tax shall be imposed or collected in the United States or in the Philippines with respect to articles coming into such country for the official use of the Government of the Philippines or of the United States, respectively, or any department or agency thereof.

4. No processing tax or other internal tax shall be imposed or collected in the United States with respect to Manila (abaca) fiber not dressed or manufactured in any manner.

5. The United States will not reduce the preference of two cents per pound provided in Section 4513 of the Internal Revenue Code of the United States (relating to processing taxes on coconut oil, etc.), which is set forth as Annex VII to this Agreement, with respect to articles "wholly the production of the Philippine Islands" or articles "produced wholly from materials the growth or production of the Philippine Islands"; except that it may suspend the provisions of Section 4511 (b) of the Internal Revenue Code of the United States, after consultation with the President of the Philippines, if it finds that adequate supplies of neither copra nor coconut oil, the product of the Philippines, are readily available for processing in the United States.

ARTICLE V

The Republic of the Philippines will take the necessary legislative and executive actions, prior to or at the time of the entry into force- of the revisions of this Agreement authorized by the Congress of the Philippines and the Congress of the United States in 1955, to enact and implement legislation similar to that already enacted by the Congress of the United States as Public Law 419, 83rd Congress, Chapter 323, 2nd Session, to facilitate the entry of Philippine traders.

ARTICLE VI

1. The disposition, exploitation, development, and utilization of all agricultural, timber, and mineral lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, all forces and sources of potential energy, and other natural resources of either Party, and the operation of public utilities, shall, if open to any person, be open to citizens of the other Party and to all forms of business enterprise owned or controlled, directly or indirectly, by citizens of such other Party in the same manner as to and under the same conditions imposed upon citizens or corporations or associations owned or controlled by citizens of the Party granting the right.

2. The rights provided for in Paragraph 1 may be exercised, in the case of citizens of the Philippines with respect to natural resources in the United States which are subject to Federal control or regulations, only through the medium of a corporation organized under the laws of the United States or one of the States thereof and likewise,

in the case of citizens of the United States with respect to natural resources in the public domain in the Philippines, only through the medium of a corporation organized under the laws of the Philippines and at least 60 per cent of the capital stock of which is owned or controlled by citizens of the United States. This provision, however, does not affect the right of citizens of the United States to acquire or own private agricultural lands in the Philippines or citizens of the Philippines to acquire or own land in the United States which is subject to the jurisdiction of the United States and not within the jurisdiction of any State and which is not within the public domain. The Philippines reserves the right to dispose of its public lands in small quantities on especially favorable terms exclusively to actual settlers or other users who are its own citizens. The United States reserves the right to dispose of its public lands in small quantities on especially favorable terms exclusively to actual settlers or other users who are its own citizens or aliens who have declared their intention to become citizens. Each Party reserves the right to limit the extent to which aliens may engage in fishing or engage in enterprises which furnish communications services and air or water transport. The United States also reserves the right to limit the extent to which aliens may own land in its outlying territories and possessions, but the Philippines will extend to American nationals who are residents of any of those outlying territories and possessions only the same rights with respect to ownership of lands, which are granted therein to citizens of the Philippines. The rights provided for In this Paragraph shall not, however, be exercised by either Party so as to derogate from the rights previously acquired by citizens or corporations or associations owned or controlled by citizens of the other Party.

3. The United States of America reserves the rights of the several States of the United States to limit the extent to which citizens or corporations or associations owned or controlled by citizens of the Philippines may engage in the activities specified in this Article. The Republic of the Philippines reserves the power to deny any of the rights specified in this Article to citizens of the United States who are citizens of States, or to corporations or associations at least 60 per cent of whose capital stock or capital is owned or controlled by citizens of States, which deny like rights to citizens of the Philippines, or to corporations or associations which are owned or controlled by citizens of the Philippines. The exercise of this reservation on the part of the Philippines shall not affect previously acquired rights, provided that in the event that any State of the United States of America should in the future impose restrictions which would deny to citizens or corporations or associations owned or controlled by citizens of the Philippines the right to continue to engage in activities in which they were engaged therein at the time of the imposition of such restrictions, the Republic of the Philippines shall be free to apply like limitations to the citizens or corporations or associations owned or controlled by citizens of such States.

ARTICLE VII

1. The Republic of the Philippines and the United States of America each agrees not to discriminate in any manner, with respect to their engaging in business activities, against the citizens or any form of business enterprise owned or controlled by citizens of the other and that new limitations imposed by either Party upon the extent to which aliens are accorded national treatment with respect to carrying on business activities within its territories, shall not be applied as against enterprises owned or controlled by citizens of the other Party which are engaged in such activities therein at the time such new limitations are adopted, nor shall such new limitations be applied to American citizens or corporations or associations owned or controlled by American citizens whose States do not impose like limitations on citizens or corporations or associations owned or controlled by citizens of the Republic of the Philippines.

2. The United States of America reserves the rights of the several States of the United States to limit the extent to which citizens or corporations or associations owned or controlled by citizens of the Philippines may engage in any business activities. The Republic of the Philippines reserves the power to deny any rights to engage in business activities to citizens of the United States who are citizens of States or to corporations or associations at

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least 60 per cent of the capital stock or capital of which is owned or controlled by citizens of such States, which deny like rights to citizens of the Philippines or to corporations or associations owned or controlled by citizens of the Philippines. The exercise of this reservation on the part of the Philippines shall not affect previously acquired rights, provided that in the event that any State of the United States of America should in the future impose restrictions which would deny to citizens or corporations or associations owned or controlled by citizens of the Philippines the right to continue to engage in business activities in which they were engaged therein at the time of the imposition of such restrictions, the Republic of the Philippines shall be free to apply like limitations to the citizens or corporations or associations owned or controlled by citizens of such States.

ARTICLE VIII

Nothing in this Agreement shall be construed:

(1) to require either Party to furnish any information the disclosure of which it considers contrary to its essential security interests; or

(2) to prevent either Party from taking any action which it considers necessary for the protection of its essential security interests—

(a) relating to fissionable materials or the materials from which they are derived;

(b) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

(c) taken in time of war or other emergency in international relations; or

(3) to prevent either Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

ARTICLE IX

1. Upon the taking effect of this Agreement, and upon the taking effect of the revisions thereof authorized by the Congress of the Philippines and the Congress of the United States in 1955, the provisions placing obligations on the United States: (a) if in effect, shall continue in effect as laws of the United States during the effectiveness of the Agreement; or (B) if not so in effect, shall take effect and continue in effect as laws of the United States during the effectiveness of the Agreement. The Philippines will continue in effect as laws of the Philippines, during the effectiveness of this Agreement, the provisions thereof placing obligations on the Philippines.

(2) The Philippines and the United States will promptly enact, and shall keep in effect during the effectiveness of this Agreement, such legislation as may be necessary to supplement the laws of the Philippines and the United States, respectively, referred to in Paragraph 1 of this Article, and to implement the provisions of such laws and provisions of this Agreement placing obligations on the Philippines and the United States, respectively.

ARTICLE X

The Philippines and the United States agree to consult with each other with respect to any questions as to the interpretation or the application of this Agreement, concerning which either Government may make representations to the other. Not later than July, 1971, the Philippines and the United States agree to consult with each other as to joint problems which may arise as a result or in anticipation of the termination of this Agreement.

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ARTICLE XI

1. This Agreement shall have no effect after July 3, 1974. It may be terminated by either the Philippines or the United States at any time, upon not less than five years' written notice. If the President of the Philippines or the President of the United States determines and proclaims that the other country has adopted or applied measures or practices which would operate to nullify or impair any right or obligation provided for in this Agreement, then the Agreement may be terminated upon not less than six months written notice.

2. The revisions of this Agreement authorized by the Congress of the Philippines and the Congress of the United States in 1955 shall enter into force on January 1, 1956.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed this Agreement and have affixed hereunto their seals.

DONE in duplicate in the English language at Washington this sixth day of September, one thousand nine hundred and fifty-five.

For the President of the Republic of the Philippines:

(Sgd.) CARLOS P. ROMULO

Special and Personal Envoy

of the President of the Philippines

For the President of the United States of America:

(Sgd.) JAMES M. LANGLEY

Special Representative of the

President of the United States of America

PROTOCOL _____

The undersigned duly empowered Plenipotentiaries have agreed to the following Protocol to the Agreement between the Republic of the Philippines and the United States of America concerning trade and related matters during a transitional period following the institution of Philippine Independence, signed at Manila on July 4, 1946, as revised, which shall constitute an integral part of the Agreement:

1. For the purpose of the Agreement—

(a) The term "person" includes partnerships, corporations, and associations.

(b) The term "United States" means the United States of America and, when used in a geographical sense, means the States, the District of Columbia, the Territories of Alaska and Hawaii and Puerto Rico.

(c) The term "Philippines" means the Republic of the Philippines and, when used in a geographical sense, means the territories of the Republic of the Philippines, whether a particular act in question took place, or a particular situation in question existed, within such territories before or after the institution of the Republic of the Philippines. As used herein the territories of the Republic of the Philippines comprise all the territories specified in Section 1 of Article I of the Constitution of the Philippines which is set forth as Annex X to this Agreement.

(d) The term "ordinary customs duty" means a customs duty based on the article as such (whether or not such duty is also based in any manner on the use, value, or method of production of the article, or on the amount of like articles imported, or on any other factor); but does not include—

(1) A customs duty based on an act or omission of any person with respect to the importation of article, or of the country from which the article is exported, or from which it comes; or

(2) A countervailing duty imposed to offset a subsidy, bounty, or grant; or

(3) An anti-dumping duty imposed to offset the selling of merchandise for exportation at a price less than the prevailing price in the country of export; or

(4) Any tax, fee, charge, or exaction, imposed on or in connection with importation unless the law of the country imposing it designates or imposes it as a customs duty or contains a provision to the effect that it shall be treated as a duty imposed under the customs laws; or

(5) The tax imposed by Section 4581 of the Internal Revenue Code of the United States, which is set forth as Annex VIII to this Agreement, with respect to an article, merchandise, or combination, ten per centum or more of the quantity by weight of which consists of, or is derived directly or indirectly from, one or more of the oils, fatty acids, or salts specified in Section 4511 of such Code which is set forth as Annex VII of this Agreement; or the tax imposed by Section 4501(b) of such Code which is set forth as Annex IX to this Agreement.

(e) The term "United States article" means an article which is the product of the United States unless, in the case of an article produced with the use of any foreign country (except the Philippines) the aggregate value of such imported materials at the time of importation into the United States was more than twenty per centum of the value of the article imported into the Philippines, the value of a such article to be determined in accordance with, and as of the time provided by, the customs laws of the Philippines in effect at the time of importation of such article. As used in this Subparagraph the term "value", when used in reference to a material imported into the United States includes the value of the material ascertained under the customs laws of the United States in effect at the time of importation into the United States, and, if not included in such value, the cost of bringing the material to the United States, but does not include the cost of landing it at the port of importation, or customs duties collected in the United States. For the purposes of this Subparagraph any imported material,

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used in the production of an article in the United States, shall be considered as having been used in the production of an article subsequently produced in the United States, which is the product of a chain of production in the United States in the course of which an article, which is the product of one stage of the chain, is used by its producer or another person, in a subsequent stage of the chain, as a material in the production of another article. It is understood that "United States articles" do not lose their status as such, for the purpose of Philippine tariff preferences, by reason of being imported into the Philippines from a country other than the United States or from an insular possession of the United States or by way of or via such a country or insular possession.

(f) The term "Philippine article" means an article which is the product of the Philippines, unless, in the case of an article produced with the use of materials imported into the Philippines from any foreign country (except the United States) the aggregate value of such imported materials at the time of importation into the Philippines was more than twenty per centum of the value of the article imported into the United States, the value of such article to be determined in accordance with, and as of the time provided by, the customs, laws of the United States in effect at the time of importation of such article. As used in this Subparagraph the term "value", when, used in reference to a material imported into the Philippines, includes the value of the material ascertained under the customs laws of the Philippines, in effect at the time of importation into the Philippines, and, if not included in such value, the cost of bringing the material to the Philippines, but does not include the cost of landing it at the port of importation, or customs duties collected in the Philippines. For the purposes of this Subparagraph any imported material, used in the production of an article in the Philippines, shall be considered as having been used in the production of an article subsequently produced in the Philippines, which is the product of a chain of production in the Philippines in the course of which an article, which is the product of one stage of the chain, is used by its producer or another person, in a subsequent stage of the chain, as a material in the production of another article. It is understood that "Philippine articles" do not use lose their status as such, for the purpose of United States tariff preferences, by reason of being imported into the United States from a country other than the Philippines or from an insular possession of the United States or by way of or via such a country or insular possession.

(g) The term "United States duty" means the rate or rates of ordinary customs duty which (at the time and place of entry, or withdrawal from warehouse, in the United States for consumption, of the Philippine article) would be applicable to a like article if imported from that foreign country which is entitled to the lowest rate, or the lowest aggregate of rates, of ordinary customs duty with respect to such like article,

(h) The term "Philippine duty" means the rate or rates of ordinary customs duty which (at the time and place of entry, or withdrawal from warehouse, in the Philippines for consumption, of the United States article) would be applicable to a like article if imported from that foreign country which is entitled to the lowest rate, or the lowest aggregate of rates, of ordinary customs duty with respect to such like article.

(i) The term "internal tax" includes an internal fee, charge, or exaction, and includes—

(1) The tax imposed by Section 4581 of the Internal Revenue Code of the United States which is set forth as Annex VIII to this Agreement, with respect to an article, merchandise, or combination, ten per centum or more of the quantity by weight of which consists of, or is derived directly or indirectly from, one or more of the oils, fatty acids or salts. specified in Section 4511 of such Code which is set forth as Annex VII to this Agreement; and the tax imposed by Section 4501(b) of such Code which is set forth as Annex IX to this Agreement; and

(2) Any other tax, fee, charge, or exaction, imposed on or in connection with importation unless the law of the country imposing it designates or imposes it as a customs duty or contains a provision to the effect that it shall be treated as a duty imposed under the customs laws.

2. For the purposes of Subparagraphs (g) and (h) of Paragraph 1 of this Protocol—

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(a) If an article is entitled to be imported from a foreign country free of ordinary customs duty, that country shall be considered as the country entitled to the lowest rate of ordinary customs duty with respect to such articles; and

(b) A reduction in ordinary customs duty granted any country, by law, treaty, trade agreement, or otherwise, with respect to any article, shall be converted into the equivalent reduction in the rate of ordinary customs duty otherwise applicable to such article.

3. For the purposes of Paragraphs 1 and 2 of Article IV, any material, used in the production of an article, shall be considered as having been used in the production of an article subsequently produced, which is the product of a chain of production in the course of which an article, which is the product of one stage of the chain, is used by its producer or another person, in a subsequent stage of the chain, as a material in the production o£ another article.

4. The terms "includes" and "including" when used in a definition contained in this Agreement shall not be deemed to exclude other things otherwise within the meaning of the term defined.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed this Protocol and have affixed hereunto their seals.

DONE in duplicate in the English language at Washington this sixth day of September, one thousand nine hundred and fifty five.

For the President of the Republic of the Philippines:

(Sgd.) CARLOS P. ROMULO

Special and Personal Envoy

of the President of the Philippines

For the President of the United States of America:

(Sgd.) JAMES M. LANGLEY

Special Representative of the

President of the United States of America

ANNEXES _____

ANNEX I

SUGAR ACT OF 1948 OF THE UNITED STATES, AS AMENDED TO SEPTEMBER 6, 1955

Section 101. For the purposes of this Act, except Title V.—

> "(e) The term 'direct-consumption sugar' means any sugars which are principally of crystalline structure and which are not to be further refined or otherwise improved in quality." 61 Stat., Pt. 1, 922.

ANNEX II

TARIFF ACT OF 1930 OF THE UNITED STATES, AS AMENDED TO SEPTEMBER 6, 1955

"Par. 1622. AH binding twine and twine chiefly used for baling hay, straw, and other fodder and bedding materials, manufactured from New Zealand hemp, henequen, manila, istle or Tampico fiber, sisal grass, or sunn, or a mixture of any two or more of them, of single ply -and measuring and not exceeding seven hundred and fifty feet to the pound." 46 Stat., Pt. 1, 675; 65 Stat. 655.

ANNEX III

TARIFF ACT OF 1930 OF THE UNITED STATES, AS AMENDED TO SEPTEMBER 6, 1955

"Par. 602. The term 'wrapper tobacco' as used in this title means that quality of leaf tobacco which has the requisite color, texture, and burn, and is of sufficient size for cigar wrappers, and the term 'filler tobacco' means all other leaf tobacco . . ."

ANNEX IV

INTERNAL REVENUE CODE OF 1954 OF THE UNITED STATES, AS AMENDED TO SEPTEMBER 6, 1955

"Sec. 4591. Imposition of tax.

> "(a) Rate.—There is hereby imposed on all oleomargarine imported from foreign countries, in addition to any import duty imposed on the same, an internal revenue tax of 15 cents per pound, such tax to be represented by coupon stamps ..."

"Sec. 4592. Definitions.

> "(a) Oleomargarine.—For the purposes of section 4591, certain manufactured substances, certain extracts, and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as 'oleomargarine', namely: All substances known prior to August 2, 1886, as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all mixtures and compounds of oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef fat, suet, lard, lard oil, fish oil or fish fat, vegetable oil, annatto, and other coloring matter, intestinal fat, and offal fat;—if (1) made in imitation or semblance of butter or (2) calculated or intended to be sold as butter or for butter, or (3), churned, emulsified, or mixed in cream, milk, water, or other liquid and containing moisture in excess of 1 per centum or common salt." 68A Stat. 545.

"Sec. 4593. Exemption.

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"(a) Shortening or condiments.—Section 4591 shall not apply to puff-pastry shortening not churned or emulsified in milk or cream, and having a melting point of 118 degrees Fahrenheit or more, nor to any of the following containing condiments and spices: salad dressings, mayonnaise dressings, or mayonnaise products, nor to liquid emulsion, pharmaceutical preparations, oil meals, liquid preservatives, illuminating oils, cleansing compounds, or flavoring compounds." 68A Stat. 546.

ANNEX V

INTERNAL REVENUE CODE OF 1954 OF THE UNITED STATES, AS AMENDED TO SEPTEMBER 6, 1955

"Sec. 4812. Importation of adulterated butter.

"There shall be imposed upon adulterated butter imported from a foreign country, in addition to any import duty imposed on the same, an internal revenue tax of 15 cents per pound, such tax to be represented by coupon stamps as in the case of adulterated butter manufactured in the United States . . ." 68A Stat. 571,

"Sec. 4826 Definitions.

"(a) Butter.—For the purpose of this part, the word 'butter' shall be understood to mean the food product usually known as butter, and made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter.

"(b) Adulterated butter.—'Adulterated butter' is defined to mean a grade of butter produced by mixing, reworking, rechurning in milk or cream, refining, or in any way producing a uniform, purified, or improved product from different lots or parcels of melted or unmelted butter or butter fat, in which any acid, alkali, chemical, or any substance whatever is introduced or used for the purpose or with the effect of cheapening in cost the product, or any butter in the manufacture or manipulation of which any process of material is used with intent or effect of causing the absorption of abnormal quantities of water, milk or cream." 68A Stat. 576.

ANNEX VI

Internal Revenue Code of 1954 of the United States, as amended to September 6, 1955

"Sec. 4831. Imposition of tax.

"(b) Imported.—There shall be imposed upon all filled cheese imported from a foreign country, in addition to any import duty imposed on the same, an internal revenue tax of 8 cents per pound; and such imported filled cheese and the packages containing the same shall be stamped, marked, and branded, as in the case of filled cheese manufactured in the United States." 68A Stat. 577.

"Sec. 4846. Definitions.

"For the purposes of this part—

"(1) Cheese.—The word 'cheese' shall be understood to mean the food product known as cheese, and made from milk or cream and without the addition of butter, or any animal, vegetable, or other oils or fats foreign to such milk or cream, with or without additional coloring matter.

"(2) hilled cheese.—Certain substances and compounds shall be known and designated as 'filled cheese/ namely: All substances made of milk or skimmed milk, with the admixture of butter, animal oils or fats, vegetable or any other oils, or compounds foreign to such milk, and made in imitation or semblance of cheese. Substances and compounds, consisting principally of cheese with added edible oils, which are not sold as cheese or as substitutes for cheese but are primarily useful for imparting a natural cheese flavor to other foods shall not be

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considered 'filled cheese' within the meaning of this part." 68A Stat. 579.

ANNEX VII

INTERNAL REVENUE CODE OF 1954 OF THE UNITED STATES, AS AMENDED TO SEPTEMBER 6, 1955

"Sec. 4511. Imposition of tax.

"(a) General.—There is hereby imposed upon the first domestic processing of coconut oil, palm oil, palm-kernel oil, fatty acids derived from any of the foregoing oils, salts of any of the foregoing (whether or not such oils, fatty acids, or salts have been refined, sulphonated, sulphated, hydrogenated, or otherwise processed), or any combination or mixture containing a substantial quantity of any one or more of such oils, fatty acids, or salts, a tax of 3 cents per pound, to be paid by the processor.

"(b) Additional rate on coconut oil.—There is hereby imposed (in addition to the tax imposed by the preceding subsection) a tax of 2 cents per pound to be paid by the processor, upon the first domestic processing of coconut oil or of any combination or mixture containing a substantial quantity of coconut oil with respect to which oil there has been no previous first domestic processing.

"(c) Termination of additional rate.—The tax imposed by subsection (b) shall not apply to any domestic processing after July 3, 1974."

"Sec. 4513. Exemptions.

(a) Acids and salts previously taxed.—The tax under section 4511 shall not apply—

" (1) with respect to any fatty acid or salt resulting from a previous first domestic processing taxed under such section or upon which an import tax has been paid under subchapter E of chapter 38, or

"(2) with respect to any combination or mixture by reason of its containing an oil, fatty acid, or salt with respect to which there has been a previous first domestic processing or upon which an import tax has been paid under subchapter E of chapter 38.

"(b) From additional tax on coconut oil.—The additional tax imposed by section 4511 (b) shall not apply when it is established, in accordance with regulations prescribed by the Secretary or his delegate, that the coconut oil (whether or not contained in a combination or mixture),—

"(1) is wholly the production of the Philippine Islands, any possession of the United States, or the Territory of the Pacific Islands (hereinafter in this paragraph referred to as the 'Trust Territory'), or

"(2) was produced wholly from materials the growth or production of the Philippine Islands, any possessions of the United States, or the Trust Territory . . ." 68A Star. 536-537.

ANNEX VIII

INTERNAL REVENUE CODE OF 1954 OF THE UNITED STATES, AS AMENDED TO SEPTEMBER 6, 1955

"Sec. 4581. Imposition of tax.

"In addition to any other tax or duty imposed by law, there is hereby imposed upon the following articles imported into the United States, unless treaty provisions of the United States otherwise provide, a tax at the rates set forth to .be paid by the importer—

"Any article, merchandise, or combination (except oils specified in section 4511), 10 percent or more of the quantity by weight of which consists of, or is derived directly or indirectly from, one or more of the products specified in sections 4561 and 4571, or of the oils, fatty acids, or salts specified in section 4511, a tax at the rate or rates per pound equal to that proportion of the rate or rates prescribed in sections 456-1 and 4571 or section 4511 in respect of such product or products which the quantity by weight of the imported article, merchandise,, or combination, consisting of or derived from such product or products, bears to the total weight of the Imported article, merchandise, or combination;

"Sec. 4582. Exemptions.

"(a) Certain natural oils.—There shall not be taxable under section 4581 any article, merchandise, or combination (other than an oil, fat, or grease, and other than products resulting from processing seeds without full commercial extraction of the oil content), by reason of the presence therein of an oil, fat, or grease which is a natural component of such article, merchandise, or combination and has never had a separate existence as an oil, fat,, or grease." 68A Stat. 544.

ANNEX IX

INTERNAL REVENUE CODE OF 1954 OF THE UNITED STATES, AS AMENDED TO SEPTEMBER 6, 1955

"Sec. 4501. Imposition of tax.

"(b) Import tax.—In addition to any other tax or duty imposed by law, there is hereby imposed, under such regulations as the Secretary or his delegate shall prescribe, a tax upon articles imported or brought into the United States as follows:

"(1) on all manufactured sugar testing by the polariscope 92 sugar degrees, 0.465 cent per pound, and, for each 0.008.65 cent per pound additional, and fractions of a degree in proportion;

"(2) on all manufactured sugar testing by the polariscope less, than 92 sugar degrees, 0.5144 cent per pound of the total sugars therein;

"(3) on all articles composed in chief value of manufactured sugar, 0.5144 cent per pound of the total sugars therein." 68A Stat. 533.

"Sec. 4502. Definitions.

"For the purposes of this subchapter.—

"(3) Manufactured sugar—The term 'manufactured sugar' means any sugar derived from sugar beets or sugarcane, which is not to be, and which shall not be, further refined or otherwise improved in quality; except sugar in liquid form which contains nonsugar solids (excluding any foreign substance that may have been added or developed in the product) equal to more than 6 per centum of the total soluble solids and except also sirup of cane juke produced from sugar cane grown in continental United States. The grades or types of sugar within the meaning of this definition shall include, but shall not be limited to, granulated sugar, lump sugar, cube sugar, powdered sugar, sugar in the form of blocks, cones, or molded shapes, confectioners' sugar, washed sugar, centrifugal sugar, clarified sugar, turbinado sugar-, plantation white sugar, muscovado sugar, refiners' soft sugar, invert sugar mush, raw sugar, sirups, molasses, and sugar mixtures.

(4) Total sugars.—The term 'total sugars' means the total amount of sucrose (Clerget) and of the reducing or invert sugars. The total sugars contained in any grade or type of manufactured sugar shall be ascertained in the manner prescribed in paragraphs 758, 759, 762, and 763 of the United States Customs Regulations (1931 edition)." 68A Stat. 534.

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ANNEX X

CONSTITUTION OF THE PHILIPPINES AS AMENDED TO SEPTEMBER 6, 1955

"Article I.—The national territory

"Section 1. The Philippines comprises all the territory ceded to the United States by the Treaty of Paris concluded between the United States and Spain on the tenth day of December, eighteen hundred and ninety-eight, the limits of which are set forth in Article III of said treaty, together with all the islands embraced in the treaty concluded at Washington, between the United States and Spain on the seventh day of November, nineteen hundred, and in the treaty concluded between the United States and Great Britain on the second day of January, nineteen hundred and thirty, and all territory over which the present Government of the Philippine Islands exercises jurisdiction."

EXCHANGE OF NOTES _____

September 6, 1955

Excellency:

I have the honor to refer to the conversations which have recently taken place between representatives of the Governments of the United States of America and the Republic of the Philippines regarding the desirability of establishing a stable and enduring basis, grounded in reciprocity, for the entry of nationals of either country, into the territories of the other for purposes of trade, investment and related activities, and for their sojourn therein, and acting, on the part of the United States, pursuant to and subject to the provisions of Public Law 419, 83rd Congress of the United States of America.

My understanding of the agreement reached as a result of these conversations is as follows:

1. Persons coming within any of the following categories shall be permitted to enter the territories of either country as nonimmigrants:

> (a) Nationals of either country who seek to enter the territories of the other country solely to carry on substantial trade prinicipally between the territories of the two countries.
>
> (b) Nationals of either country who seek to enter the territories of the other country solely to develop and direct the operation of enterprises in which they have invested, or are actively in the process of investing, a substantial amount of capital.
>
> (c) Spouses and unmarried minor children of persons referred to in sub-paragraphs (a) and (b), if accompanying or following to join such nationals.

2. Persons who enter either country in accordance with the provisions of paragraph 1 shall be permitted to remain therein during such period as they maintain the status in which they were admitted.

3. The provisions of paragraph 1 and 2 shall be subject to the right of either Government to exclude or expel particular individuals, on any of the grounds specified in the immigration laws, for the purpose of the protecting public order, health, morals and safety.

4. The word "substantial" as used herein with reference to trade or investment shall not be interpreted to discourage particular types or investment or necessarily to exclude small traders or investors. The criteria for determining eligibility for treaty investors and treaty traders status have been influenced by considerations of preventing abuse or evasion of the two countries' immigration laws, inlcuding quota restrictions. What constitutes a substantial investment is a relative matter and is not determined alone by size of investment.

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5. The territories to which this agreement shall apply with respect to the United States are the continental United States, Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands.

6. The present agreement shall remain in force until July 3, 1974, and thereafter until terminated as provided herein. Either Government may, by giving one year's written notice to the other Government, terminate this agreement at the end of the initial period, July 3, 1974, or at any time thereafter.

There are annexed hereto certain regulations and an explanatory note which set forth the principles presently applied by my Government in the enforcement of those provisions set for the above. I request to be informed whether your Government considers these as providing appropriate guidance to both Governments in the application of the present agreement with respect to the subjects to which they relate and, if so, that your Government will apply comparable regulations and interpretations in the enforcement of the provisions set forth above.

Upon receipt of a note from you indicating that the foregoing is acceptable to the Government of the Republic of the Philippines, the Government of the United States of America will consider this note and your reply as constituting an agreement between the two Government on this subject, the agreement to enter into force on the date of your note in reply.

Accept, Excellency, the assurances of my highest consideration.

(Sgd.)JAMES M. LANGLEY

Special Representative of the

President of the United States of America

His Excellency

CARLOS P. ROMULO

Special and Personal Envoy of the

President of the Philippines

Enclosure:

Annex.

ANNEX

SECTION 41, 71 (B), TITLE 22, UNITED STATES CODE OF FEDERAL REGULATION

> (b) An Alien applying for a visa as a nonimmigrant treaty trader under the provisions of section 101 (a) (15) (E) (i) of the Act shall be required to present any evidence deemed necessary by the consular officer to establish that he is entitled to nonimmigrant classification under that section. Such alien shall establish specifically that:

(1) He is proceeding to the United States solely for the purpose of carrying on substantial trade principally between the United States and the foreign state of which he is a national, under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and such foreign state. In this connection, bank statements, invoices, and correspondence from persons or organizations with whom or with which he has, and will have, commercial relations, may be required;

(2) He intends in good faith, and will be able, to depart from the United States upon the termination of his status; and that

(3) If he is employed or to be employed, his employer shall be a foreign person or oganization and he shall be engaged in duties of a supervisory or executive character, or if he is, or is to be, employed in a minor capacity, he has special qualifications which make his services essential to the efficient operations of the employer. An alien employed solely in a manual capacity shall not be entitled to classification as a treaty trader.

SECTION 41, 76 (B), TITLE 22, UNITED STATES CODE OF FEDERAL REGULATIONS

> (b) An alien applying for a visa as a nonimmigrant under the provisions of section 101 (a) (15) (E) (ii) of the Act shall be required to present any evidence deemed necessary by the consular officer to establish that he is entitled nonimmigrant classification under that section. Such alien shall establish specifically that:

(1) He seeks to enter the United States solely for the purpose of developing and directing the operations of an enterprise in the United States: (i) In which he has invested, or is actively in the process of investing, a substantial amount of capital; or (ii) in which his employer has invested, or is actively in the process of investing, a substantial amount of capital: Provided, That such employer is a foreign person or organization of the same nationality as the applicant and that the applicant is employed by such person or organization in a responsible capacity; or

(2) He seeks to enter the United States as the spouse or child of an alien described in subparagraph (1) of this paragraph; and

(3) He is not applying for a nonimmigrant visa in an effort to evade the quota or other restrictions which are applicable to immigrants;

(4) He intends in good faith, and will be able, to depart from the United States upon the termination of his status; and

(5) The enterprise is one which actually exists or is in active process of formation, and is not a fictitious paper operation.

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EXPLANATORY NOTE TO SECTION 41, 71 (B) (3)

A foreign organization within the meaning of this Section is an organization which possesses the nationality of the alien desiring to qualify as a "treaty trader". The fact that an organization is incorporated under the laws of a State of the United States does not necessarily determine that it is not a foreign organization. The nationality of such corporation may be determined for visa purposes by the nationality of those persons who own the principal amount (i.e., 51 percent or more of the stock of that corporation).

September 6, 1955

Excellency:

I have the honor to acknowledge the receipt of your note of today's date regarding the recent negotiations between representatives of the Government of the Republic of the Philippines, acting pursuant to and subject to the provisions of Republic Act No. 1393 of the Republic of the Philippines, and representatives of the Government of the United States of America acting pursuant to and subject to the provisions of Public Law 419, 83rd Congress, of the United States of America, for the conclusion of an agreement, based on reciprocity, for the entry of nationals of either country into the territories of the other for purposes of trade, investment and related activities, and for their sojourn therein.

The terms of the agreement which has been reached as a result of these negotiations, as expressed in your note, are as follows:

"1. Persons coming within any of the following categories shall be permitted to enter the territories of either country as nonimmigrants:

> (a) Nationals of either country who seek to enter the territories of the other country solely to carry on substantial trade principally between the territories of the two countries.
>
> (b) Nationals of either country who seek to enter the territories of the other country solely to develop and direct the operations of enterprises in which they have invested, 01; are actively in the process of investing, a substantial amount of capital.
>
> (c) Spouses and unmarried minor children of persons referred to in subparagraphs (a) and (b), if accompanying or following to join such nationals.

"2. Persons who enter either country in accordance with the provisions of paragraph 1 shall be permitted to remain therein during such period as they maintain the status in which they were admitted.

"3. The provisions of paragraphs 1 and 2 shall be subject to the right of either Government to exclude or expel particular individuals, on any of the grounds specified in the immigration laws, for the purposes of protecting public order, health, morals and safety.

"4. The word "substantial" as used herein with reference to trade or investment shall not be interpreted to discourage particular types of investment or necessarily to exclude small traders or investors. The criteria for determining eligibility for treaty investors and treaty traders status have been influenced by considerations of preventing abuse or evasion of the two countries' immigration laws, including quota restrictions. What constitutes a substantial investment is a relative matter and is not determined alone by size of investment.

"5. The territories to which this agreement shall apply with respect to the United States are the continental United States, Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands.

"6. The present agreement shall remain in force and until July 3, 1974, and thereafter terminated as provided

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herein. Either Government may, by giving one year's written notice to the other Government, terminate this agreement at the end of the initial period, July 3, 1974, or at any time thereafter."

In addition, there are annexed to your note certain regulations, with an explanatory note, setting forth principles applied by the Government of the United States in the enforcement of the United States immigration laws equivalent to the provisions of the agreement. You request to be informed whether the Government of the Republic of the Philippines will apply comparable regulations and interpretations in implementing the terms of the agreement. I wish to inform you that my Government considers the regulations and explanatory note annexed to your note as furnishing appropriate guidance in carrying out the agreement and that my Government will apply comparable regulations and interpretations.

The agreement set forth above is acceptable to my Government and, in accordance with the statement made in the last paragraph of your note under reference, the Government of the Republic of the Philippines considers your note and this reply as constituting an agreement between our two Governments, which enters into force as of today.

Accept, Excellency, the assurances of my highest consideration.

(Sgd.)CARLOS P. ROMULO

Special and Personal Envoy

of the President of the Philippines

His Excellency

JAMES M. LANGLEY

Special Representative of the

President of the United States of America

September 6, 1955

Excellency:

I have the honor to refer to conversations recently held by officers of our two Governments regarding certain provisions of the Agreement concerning Trade and Related Matters during a Transitional Period following the Institution of Philippine Independence, as revised and signed today.

"It is the understanding of my Government that Paragraph 7 of Article I of the Agreement provides that, in lieu of any tax on the sale of foreign exchange during the life of the revised Agreement, the Government of the Philippines shall impose the special import tax, subject to the specifications provided for in the paragraph.

"It is further the understanding of my Government that Paragraph 3, Article III, in addition to providing for prior notification and an opportunity for consultation regarding quotas imposed pursuant to Paragraph 2 of that Article, would also afford a basis for consultation in case of non-discriminatory import and export restrictions or prohibitions to the extent that the two parties find such consultation practicable. It is understood that the right of consultation with respect to the application of any non-discriminatory import or export restrictions or prohibitions does not imply that the prior consent of the other party is necessary before any such restrictions or prohibitions can be put into effect."

If the above is in accord with the understanding of your Government I should appreciate receiving your confirmation of this fact.

Accept, Excellency, the assurances of my highest consideration.

(Sgd.)JAMES M. LANGLEY

Special Representative of the

President of the United States of America

His Excellency

CARLOS P. ROMULO,

Special and Personal Envoy of the

President of the Philippines.

September 6, 1955

EXCELLENCY:

I have the honor to refer to conversations recently held by officers of our two Governments regarding certain provisions of the Agreement concerning trade and related matters during a transitional period following institution of Philippine independence, as revised and signed today, and to your note of today's date setting forth the views of your Government on certain matters relating to such Agreement, which reads as follows:

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> "It is the understanding of my Government that paragraph 7 of Article I of the Agreement provides that, in lieu of any tax on the sale of foreign exchange during the life of the revised Agreement, the Government of the Philippines shall impose the special import tax, subject to the specifications provided for in the paragraph.
>
> "It is further the understanding of my Government that Paragraph 3, Article III, in addition to providing for prior notification and an opportunity for consultation regarding quotas imposed pursuant to Paragraph 2 of that Article, would also afford a basis for consultation in case of non-discriminatory import and export restrictions or prohibitions to the extent that the two parties find such consultation practicable. It is understood that the right of consultation with respect to the application of any non-discriminatory import or export restrictions or prohibitions does not imply that the prior consent of the other party is necessary before any such restrictions or prohibitions can be put into effect."

I am happy to state that the understanding of your Government as set forth above in your note is also the understanding of my Government.

Accept, Excellency, the assurances of my highest consideration.

(Sgd.)CARLOS P. ROMULO

Special and Personal Envoy

of the President of the Philippines

His Excellency

JAMES M. LANGLEY

Special Representative of the

President of the United States of America

REPUBLIC ACT NO. 1355 _____

THIRD CONGRESS OF THE REPUBLIC OF THE PHILIPPINES

}

Second Session

}

S. No. 320

}

[REPUBLIC ACT No. 1355]

AN ACT AUTHORIZING THE PRESIDENT OF THE PHILIPPINES TO ENTER INTO A REVISED AGREEMENT WITH THE PRESIDENT OF THE UNITED STATES ON THE BASIS OF THE FINAL ACT OF NEGOTIATIONS RELATIVE TO THE REVISION OF THE 1946 TRADE AGREEMENT BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE UNITED STATES OF AMERICA, WHICH WAS SIGNED AT WASHINGTON, D. C. ON DECEMBER 15, 1954.

WHEREAS, the existing Trade Agreement between the Philippines and the United States is embodied in the enabling legislation approved respectively by two countries, namely: Commonwealth Act No. 733 on the part of the Philippines and Public Law 371, 79th Congress, on that of the United States:

WHEREAS, pursuant to Republic Act No. 1137 of the Philippines and Public Law 474, 83rd Congress, of the United States, the free trade period provided for in Article I of the Trade Agreement, which was to have terminated on July 3, 1954, was extended for eighteen months, i.e., from July 4, 1954 to December 31, 1955, which extension was agreed upon and approved in order to permit consultations between the two countries with a view to securing a mutually satisfactory modification or revision of the aforesaid Agreement;

WHEREAS, as a result of mutual efforts and consultations, the Philippine Economic Mission and the United States Delegation concluded and signed on December 15, 1954 at Washington, D. C, the Final Act of Negotiations embodying their joint recommendations for the revision of the 1946 Trade Agreement between the Philippines and the United States;

WHEREAS, the full text of the Final Act, as corrected, is as follows:

FINAL ACT OF NEGOTIATIONS RELATIVE TO REVISION OF THE 1946 TRADE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF THE PHILIPPINES.

The Delegations of the Governments of the United States of America and of the Republic of the Philippines have concluded negotiations in Washington this day relative to amendment of the 1946 Trade Agreement (hereinafter referred to as the Agreement) between the United States of America and the Republic of the Philippines signed at Manila, July 4th, 1946.

As a result of the discussions which have taken place, the two Delegations have agreed to recommend to their respective Governments for consideration the following proposed revisions in the Agreement:

REVISION OF PREAMBLE

As amended, the Preamble would read as follows:

> "The President of the United States of America and the President of the Republic of the Philippines, mindful of the close economic ties between the people of the United States and the people of the Philippines during many years of intimate political relations, and desiring to enter into an agreement in keeping with their long friendship, which will be mutually beneficial to the two peoples and will strengthen the economy of the Philippines so as to enable that Republic to contribute more effectively to the peace and prosperity of the free world, have agreed to the following Articles:"

REVISION OF ARTICLE I

1. In Paragraph 1 change date of "July 3, 1954" to read "December 31, 1955", in accordance with Public Law 474 of the 83rd Congress of the United States of America, Philippine Republic Act No. 1137 of June 16, 1954.

2. Amend Paragraph 2 so as to provide acceleration of the application of the Philippine duties on imports from the United States and deceleration of the application of United States duties on imports from the Philippines, during the period January 1, 1956, to July 3, 1974, according to the schedule specified, with complete elimination of such preferences to be accomplished by July 4, 1974.

3. The Philippine Government, in addition to the duties provided for herein, will be authorized to impose a tax on imports to replace the exchange tax currently in effect. Such tax on imports would be temporary and on a declining basis; it would begin at a level no higher than the current exchange tax.

As amended, Article I would read as follows:

"ARTICLE I

"1. The ordinary customs duty to be collected on United States articles as defined in Subparagraph (e) of Paragraph I of the Protocol, which during the following portions of the period from January 1, 1956, to July 3, 1974, both dates inclusive, are entered, or withdrawn from warehouse, in the Philippines for consumption, shall be determined by applying the following percentages of the Philippine duty as defined in Subparagraph (b) of Paragraph 1 of the Protocol.

"(a) During the period from January 1, 1956, to December 31, 1958, both dates inclusive, twenty-five per centum.

"(b) During the period from January 1, 1959, to December 31, 1961, both dates inclusive, fifty per centum.

"(c) During the period from January 1, 1962, to December 31, 1964, both dates inclusive, seventy-five per centum.

"(d) During the period from January 1, 1965, to December 31, 1973, both dates inclusive, ninety per centum.

"(e) During the period from January 1, 1974, to July 3, 1974, both dates inclusive, one hundred per centum.

"2. The ordinary customs duty to be collected on Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol, other than those specified in the Schedule to Paragraph 2 of Article II, which during such portions of such period are entered, or withdrawn from warehouse, in the United States for consumption, shall be determined by applying the following percentages of the United States duty as defined in Subparagraph (g) of Paragraph 1 of the Protocol:

"(a) During the period from January 1, 1956, to December 31, 1958, both date inclusive, five per centum.

"{b) During the period from January 1, 1959, to December 31, 1961, both dates inclusive, ten per centum.

"(c) During the period from January 1, 1962, to December 31, 1964, both dates inclusive, twenty per centum.

"(d) During the period from January 1, 1965, to December 31, 1967, both dates inclusive, forty per centum.

"(e) During the period from January 1, 1968, to December 31, 1970, both dates inclusive, sixty per centum.

"(f) During the period from January 1, 1971, to December 31, 1973, both dates inclusive, eighty per centum.

"(g) During the period from January 1, 1974, to July 3, 1974, both dates inclusive, one hundred per centum.

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"3. Customs duties on United States articles, and on Philippine articles, other than ordinary customs duties, shall be determined without regard to the provisions of Paragraphs 1 and 2 of this Article, but shall be subject to the Provisions of Paragraph 4 of this Article.

"4. With respect to United States articles imported into the Philippines, and with respect to Philippine articles imported into the United States, no duty on or in connection with importation shall be collected or paid in an amount in excess of the duty imposed with respect to like articles which are the product of any other foreign country, or collected or paid in any amount if the duty is not imposed with respect to such like articles. As used in this Paragraph, the term 'duty' includes taxes, fees, charges, or exactions, imposed on or in connection with importation, but does not include internal taxes or ordinary customs duties.

"5. With respect to products of the United States which do not come within the definition of United States articles, imported into the Philippines, no duty on or in connection with importation shall be collected or paid in an amount in excess of the duty imposed with respect to like articles which are the product of any other foreign country, or collected or paid in any amount if the duty is not imposed with respect to such like articles which are the product of any other foreign country. As used in this Paragraph the term 'duty' includes taxes, fees, charges, or exactions, imposed on or in connection with importation, but does not include internal taxes.

"6. With respect to products of the Philippines, which do not come within the definition of Philippine articles, imported into the United States, no duty on or in connection with importation shall be collected or paid in an amount in excess of the duty imposed with respect to like articles which are the product of any other foreign country (except Cuba), or collected or paid in any amount if the duty is not imposed with respect to such like articles which are the product of any other foreign country (except Cuba). As used in this Paragraph the term 'duty' includes taxes, fees, charges, or exactions, imposed on or in connection with importation, but does not include internal taxes.

"7. Notwithstanding the provisions of Paragraph 1 of this Article, the Philippines shall impose a temporary special import tax, in lieu of the present tax on the sale of foreign exchange on any article or product imported or brought into the Philippines, irrespective of source; provided that such special levy is applied in a non-discriminatory manner pursuant to Paragraphs 4 and 5 of this Article, that the initial tax is at a rate no higher than the present rate of the foreign exchange tax, and that the tax shall be progressively reduced at a rate no less rapid than that specified in the following Schedule. If, as a result of applying this Schedule, the total revenue from Philippine customs duties and from the special import tax on goods coming from the United States is less in any calendar year than the proceeds from the exchange tax on such goods during the calendar year 1955, no reduction need be made in the special import tax for the next succeeding calendar year, and, if necessary to restore revenues collected on the importation of United States goods to the level of the exchange tax on such goods in calendar year 1955, the Philippines may increase the rate for such succeeding calendar year to any previous level provided for in this Schedule which is considered to be necessary to restore such revenues to the amount collected from the exchange tax on United States goods in calendar year 1955. Rates for the special import levy in subsequent years shall be fixed in accordance with the schedules specified in this Article, except as the Philippine Government may determine that higher rates are necessary to maintain the above-mentioned level of revenues from the importation of United States goods. In this event, such rate shall be determined by the Philippine Government, after consultation with the United States Government, at a level of the Schedule calculated to cover any anticipated deficiency arising from the operation of this provision.

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"SCHEDULE FOR REDUCING SPECIAL IMPORT TAX

"(a) After December 31, 1956, ninety per centum.

"(b) After December 31, 1957, eighty per centum.

"(c) After December 31, 1958, seventy per centum.

"(d) After December 31, 1959, sixty per centum.

"(e) After December 31, 1960, fifty per centum.

"(f) After December 31, 1961, forty per centum.

"(g) After December 31, 1962, thirty per centum.

"(h) After December 31, 1963, twenty per centum.

"(i) After December 31, 1964, ten per centum.

"(j) On and after January 1, 1966, nil."

REVISED ARTICLE II

1. Amend Paragraph 1 so as to delete rice and remove cigars, scrap tobacco, coconut oil and buttons of pearl or shell from the application of the absolute quota provisions. Also provide that the present absolute quotas on Philippine raw and refined sugars shall be without prejudice to any increases which the United States Congress might allocate to the Philippines in the future.

2. Amend Paragraph 2 so as to provide for a diminishing duty-free quota on cigars, scrap tobacco, coconut oil and buttons of pearl or shell, such duty-free quota to be reduced at fixed percentages somewhat different from the 5 per cent annual reductions provided in the Agreement. The articles subject to the tariff quota shall no longer be subject to absolute quotas.

3. Delete Paragraphs 3 and 4 concerning the allocation by the Philippines of quotas.

As amended, Article II would read as follows:

ARTICLE II

"1. During the period from January 1, 1956, to December 31, 1973, both dates inclusive, the total amount of the articles falling within one of the classes specified in Items A and A-l of the Schedule to this Paragraph, which are Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol, and which, in any calendar year, may be entered, or withdrawn from warehouse, in the United States for consumption, shall not exceed the amounts specified in such Schedule as to each class of articles. During the period from January 1, 1956, to December 31, 1973, both dates inclusive, the total amount of the articles falling within the class specified in Item B of the Schedule to this Paragraph which are the product of the Philippines, and which, in any calendar year, may be entered, or withdrawn from warehouse, in the United States for consumption, shall not exceed the amount specified in such Schedule as to such class of articles. During the period from January 1, 1974, to July 3, 1974, both dates inclusive, the total amounts referred to in the preceding sentences of this Paragraph shall not exceed one-half of the amount specified in such Schedule with respect to each class of articles, respectively. The establishment herein of the limitations on the amounts of Philippine raw and refined sugar that may be entered, or withdrawn from warehouse, in the United States for consumption, shall be without prejudice to any increases which the Congress of the United States might allocate to the Philippines in the future. The following Schedule to Paragraph 1 shall constitute an integral part thereof:

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"SCHEDULE OF ABSOLUTE QUOTAS

Items

Classes of Articles

Amounts

A

Sugars.....

952,000 short tons

A-1

of which not to exceed.....

56,000 short tons

may be refined sugars, meaning "direct-consumption sugar" as defines in Section 101 of United States which is set forth in part as Annex I to this Agreement.

B

Cordage, including yarns, twines (including binding twine described in Paragraph

1622 of the Tariff Act of 1930 of the United States, as amended, which is set forth as Annex II to this Agreement), cords, cordage, rope, and cable, tarred or untarred, wholly or in chief value of manila (Abaca) or other hard fiber....

6,000,000 lbs.

"2. Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol falling within one of the classes specified in the items included in the Schedule to this Paragraph, which during the following portions of the period from January 1, 1956, to December 31, 1973, both dates inclusive, are entered, or withdrawn from warehouse, in the United States for consumption, shall be free of ordinary customs duty, in quantities determined by applying the following per centages to the amounts specified in such Schedule as to each such class of articles:

> "(a) During each of the calendar years 1956 to 1958, inclusive, ninety-five per centum.
>
> "(b) During each of the calendar years 1959 to 1961, inclusive, ninety per centum.
>
> "(c) During each of the calendar years 1962 to 1964, inclusive, eighty per centum.
>
> "(d) During each of the calendar years 1965 to 1967, inclusive, sixty per centum.
>
> "(e) During each of the calendar years 1968 to 1970, inclusive, forty per centum.
>
> "(f) During each of the calendar years 1971 to 1973, inclusive, twenty per centum.
>
> "(g) On and after January 1, 1974, nil.

The following Schedule to Paragraph 2 shall constitute an integral part thereof:

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"SCHEDULE OF TARIFF QUOTAS

Items

Classes of Articles

Amounts

A

Cigars (exclusive of cigarettes, che-roots of all kings, and paper cigars and cigarettes, including wrappers) .....

200,000,000 cigars

B

Scrap tobacco and stemmed and unstemmed filler tobacco described in

Paragraph 602 of the Tariff Act of 1930 of the United States, as amended, which is set forth as Annex 111 to this Agreement .....

6,500,000

C

Coconut Oil .....

200,000 long tons

D

Buttons of pearl or shell .....

850,000 gross

The quantities shown in the Schedule to this Paragraph represent base quantities for the purposes of computing the tariff-free quota and are not absolute quotas. Any such Philippine article so entered, or withdrawn from warehouse, in excess of the duty-free quota provided in this Paragraph shall be subject to one hundred per centum of the United States duty as defined in Subparagraph (g) of Paragraph 1 of the Protocol.

REVISION OF ARTICLE III

Amend Article III to provide that the authority to impose new quantitative restrictions be reciprocal and to provide for application of quantitative restriction for balance of payments reasons.

As amended, Article III would read as follows:

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"ARTICLE III

"1. Except as otherwise provided in Article II or in Paragraph 2 of this Article, neither country shall impose restrictions or prohibitions on the importation of any article of the other country, or on the exportation of any article to the territories of the other country, unless the importation of the like article of, or the exportation of the like article to, all third countries is similarly restricted or prohibited. If either country imposes quantitative restrictions on the importation or exportation of any article in which the other country has an important interest and if it makes allotments to any third country, it shall afford such other country a share proportionate to the amount of the article, by quantity or value, supplied by or to it during a previous representative period, due consideration being given to any special factors affecting the trade in such article.

"2(a) Notwithstanding the provisions of Paragraph 1 of this Article, with respect to quotas on United States articles as defined in Subparagraph (e) of Paragraph 1 of the Protocol or with respect to quotas on Philippine articles as defined in Subparagraph (f) of Paragraph 1 of the Protocol (other than the articles for which quotas are provided in Paragraph 1 of Article II) a quota may be established only if—

"(1) The President of the country desiring to impose the quota, after investigation, finds and proclaims that, as the result of preferential treatment accorded pursuant to this Agreement, any article of the other country is being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive articles; or

"(2) The President of the country desiring to impose the quota finds that such action is necessary to forestall the imminent threat of, or to stop, a serious decline in its monetary reserves, or, in the event its monetary reserves are very low, to achieve a reasonable rate of increase in its reserves.

"(b) Any quota imposed for any twelve-month period under (a) (1) above for the purpose of protecting domestic industry shall not be less than the amount determined by the President of the importing country as the total amount of the articles of such class which, during the twelve months preceding entry into effect of the quota, was entered, or withdrawn from warehouse, for consumption, after deduction of the amount by which he finds domestic production can be increased during the twelvemonth period of the quota; or if the quota is established for any period other than a twelve-month period, it shall not be less than a proportionate amount.

"(c) Each Party agrees not to apply restrictions so as to prevent unreasonably the importation of any description of goods in minimum commercial quantities, the exclusion of which would seriously impair regular channels of trade, or restrictions which would prevent the importation of commercial samples or prevent compliance with patent, trade mark, copyright, or similar procedures.

"(d) Any quota established pursuant to this Paragraph shall not continue in effect longer than necessary to achieve the purposes for its imposition, at which time the President of the country imposing the quota, following investigation, shall find and proclaim that the conditions which gave rise to the establishment of such quota no longer exist.

"3. Either country taking action pursuant to the provisions of this Article shall give notice to the other country as far in advance as may be practicable, and shall afford it an opportunity to consult in respect of the proposed action. It is understood that this right of consultation does not imply that the consent of the other country to the establishment of the quota is needed in order for the quota to be put into effect."

REVISION OF ARTICLE IV

1. Amend the Article to delete provisions in Paragraph 3 prohibiting imposition of an export tax by the United States on articles exported to the Philippines, or by the Philippines on articles exported to the United States.

2. Redesignate Paragraphs 4, 5 and 6, as Paragraphs 3, 4 and 5. As amended, Article IV would read as follows:

"ARTICLE IV

"1. With respect to articles which are products of the United States coming into the Philippines, or with respect to articles manufactured in the Philippines wholly or in part from such articles, no internal tax shall be—

> "(a) Collected or paid in an amount in excess of the internal tax imposed with respect to like articles which are the product of the Philippines, or collected or paid in any amount if the internal tax is not imposed with respect to such like articles;
>
> "(b) Collected or paid in an amount in excess of the internal tax imposed with respect to like articles which are the product of any other foreign country, or collected or paid in any amount if the internal tax is not imposed with respect to such like articles.

Where an internal tax is imposed with respect to an article which is the product of a foreign country to compensate for an internal tax imposed (1) with respect to a like article which is the product of the Philippines, or (2) with respect to materials used in the production o£ a like article which is the product of the Philippines, if the amount of the internal tax which is collected and paid with respect to the article which is the product of the United States is not in excess of that permitted by Paragraph (1) (b) of Article IV such collection and payment shall not be regarded as in violation of the first sentence of this Paragraph.

"2. With respect to articles which are products of the Philippines coming into the United States, or with respect to articles manufactured in the United States wholly or in part from such articles, no internal tax shall be—

> "(a) Collected or paid in an amount in excess of the internal tax imposed with respect to like articles which are the product of the United States, or collected or paid in any amount if the internal tax is not imposed with respect to such like articles;
>
> "(b) Collected or paid in an amount in excess of the internal tax imposed with respect to like articles which are the product of any other foreign country, or collected or paid in any amount if the internal tax is not imposed with respect to such like articles.

Where an internal tax is imposed with respect to an article which is the product of a foreign country to compensate for an internal tax imposed (1) with respect to a like article which is the product of the United States, or (2) with respect to materials used in the production of a like article which is the product of the United States, if the amount of the internal tax which is collected and paid with respect to the article which is the product of the Philippines is not in excess of that permitted by Paragraph 2 (b) of Article IV, such collection and payment shall not be regarded as in violation of the first sentence of this Paragraph. This Paragraph shall not apply to the taxes imposed under Sections 4591, 4812, or 4831 of the Internal Revenue Code of the United States which are set forth in part as Annexes IV, V, and VI to this Agreement.

"3. No processing tax or other internal tax shall be imposed or collected in the United States or in the Philippines with respect to articles coming into such country for the official use of the Government of the Philippines or of the United States, respectively, or any department or agency thereof.

"4. No processing tax or other internal tax shall be imposed or collected in the United States with respect to manila (abaca) fiber not dressed or manufactured in any matter.

"5. The United States will not reduce the preference of two cents per pound provided in Section 4513 of the Internal Revenue Code of the United States (relating to processing taxes on coconut oil, etc.), which is set forth as Annex VII to this Agreement, with respect to articles 'wholly the production of the Philippine Islands' or articles 'produced wholly from materials the growth on production of the Philippine Islands'; except that it may suspend the provisions of Section 4511 (b) of the Internal Revenue Code of the United States during any period as to

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which the President of the United States, after consultation with the President of the Philippines, finds that adequate supplies of neither copra nor coconut oil, the product of the Philippines, are readily available for processing in the United States."

NEW ARTICLE V

1. Delete all of old Article V relating to currency and exchange.

2. Delete all of old Article VI regarding immigration, which is obsolete.

3. Insert a new Article to be designated as Article V, to provide that the Republic of the Philippines will implement Public Law 419 of the 83rd Congress of the United States of America regarding the establishment of treaty merchant status for aliens of the two countries.

The new Article V would read as follows:

"ARTICLE V

> "The Republic of the Philippines will take the necessary legislative and executive actions, prior to or at the time of the approval of this Agreement, to enact and implement legislation similar to that already enacted by the Congress of the United States as Public Law 419, 83rd Congress, Chapter 323, 2d Session, to facilitate the entry of Philippine traders.

NEW ARTICLE VI

1. Amend the old Article VII so as to provide for mutualization of rights which either Patty accords to the other.

2. Redesignate the Article as "Article VI".

The new Article VI would read as follows:

"ARTICLE VI

> "1. The disposition, exploitation, development, and utilization of all agricultural, timber and mineral lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, all forces and sources of potential energy, and other natural resources of either Party, and the operation of public utilities, shall, if open to any person, be open to citizens of the other Party and to all forms of business enterprise owned or controlled, directly or indirectly, by citizens of such other Party in the same manner as to and under the same conditions imposed upon citizens or corporations or associations owned or controlled by citizens of the Party granting the right.
>
> "2. The rights provided for in Paragraph 1 may be exercised, in the case of citizens of the Philippines with respect to natural resources in the United States which are subject to Federal control or regulations, only through the medium of a corporation organized under the laws of the United States or one of the States thereof and likewise, in the case of citizens of the United States with respect to natural resources in the public domain in the Philippines, only through the medium of a corporation organized under the laws of the Philippines and at least 60% of the capital stock of which is owned or controlled by citizens of the United States. This provision, however, does not affect the right of citizens of the United States to acquire or own private agricultural lands in the Philippines or citizens of the Philippines to acquire or own land in the United States which is subject to the jurisdiction of the United States and not within the jurisdiction of any State and which is not within the public domain. The Philippines reserves the right to dispose of its public lands in small quantities on especially favorable terms exclusively to actual settlers or other users who are its own citizens. The United States reserves the right to dispose of its public lands in small quantities on especially favorable terms exclusively to actual

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settlers or other users who are its own citizens or aliens who have declared their intention to become citizens. Each Party reserves the right to limit the extent to which aliens may engage in fishing or engage in enterprises which furnish comunications services and air or water transport. The United States also reserves the right to limit the extent to which aliens may own land in its outlaying territories and possession, but the Philippines will extend to American nationals who are residents of any of those outlying territories and possessions only the same rights, with respect to ownership of lands, which are granted therein to citizens of the Philippines. The rights provided for in this Paragraph shall not, however, be exercised by either Party so as to derogate from the rights previously acquired by citizens or corporations or associations owned or controlled by citizens of the other Party.

"3. The United States of America reserves the rights of the several States of the United States to limit the extent to which citizens or corporations or associations owned or controlled by citizens of the Philippines may engage in the activities specified in this Article, The Republic of the Philippines reserves the power to deny any of the rights specified in this Article to citizens of the United States who are citizens of States, or to corporations or associations at least 60% of whose capital stock or capital is owned or controlled by citizens of States, which deny like rights to citizens of the Philippines, or to corporations or associations which are owned or controlled by citizens of the Philippines. The exercise of this reservation on the part of the Philippines shall not affect previously acquired rights, provided that in the event that any State of the United States of America should in the future impose restrictions which would deny to citizens or corporations or associations owned or controlled by citizens of the Philippines the right to continue to engage in activities in which they were engaged therein at the time of the imposition of such restrictions, the Republic of the Philippines shall be free to apply like limitations to the citizens or corporations or associations owned or controlled by citizens of such States."

NEW ARTICLE VII

1. Old Article VII, revised, becomes Article VI.

2. New Article VII provides for reciprocal non-discrimination by either Party against the citizens or enterprises of the other with respect to engaging in business activities.

New Article VII would read as follows:

"ARTICLE VII

"1. The Republic of the Philippines and the United States of America each agrees not to discriminate in any manner, with respect to their engaging in business activities, against the citizens or any form of business enterprise owned or controlled by citizens of the other and that new limitations imposed by either Party upon the extent to which aliens are accorded national treatment with respect to carrying on business activities within its territories, shall not be applied as against enterprises owned or controlled by citizens of the other Party which are engaged in such activities therein at the time such new limitations are adopted, nor shall such new limitations be applied to American citizens or corporations or associations owned or controlled by American citizens whose States do not impose like limitations on citizens or corporations or associations owned or controlled by citizens of the Republic of the Philippines.

"2. The United States of America reserves the rights of the several States of the United States to limit the extent to which citizens or corporations or associations owned or-controlled by citizens of the Philippines may engage in any business activities. The Republic of the Philippines reserves the power to deny any right to engage in business activities to citizens of the United States who are citizens of States, or to corporations or associations at least 60% of the capital stock or capital of which is owned or controlled by citizens of States, which deny like rights to citizens of the Philippines or to corporations or associations owned or controlled by citizens of the Philippines. The exercise of this reservation on the part of the Philippines shall not affect

previously acquired rights, provided that in the event that any State of the United States of America should in the future impose restrictions which would deny to citizens or corporations or associations owned or controlled by citizens of the Philippines the right to continue to engage in business activities in which they were engaged therein at the time of the imposition of such restrictions, the Republic of the Philippines shall be free to apply like limitations to the citizens or corporations or associations owned or controlled by citizens of such States."

NEW ARTICLE VIII

1. Old Article VIII, as amended, is redesignated Article IX.

2. Insert a new Article with respect to Security Exceptions. The new article VIII would read as follows:

"ARTICLE VIII

"Nothing in this Agreement shall be construed:

"(1) to require either Party to furnish any information the disclosure of which it considers contrary to its essential security interests; or

"(2) to prevent either Party from taking any action which it considers necessary for the protection of its essential security interests—

"(a) relating to fissionable materials or the materials from which they are derived;

"(b) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

"(c) taken in time of war or other emergency in international relations; or

"(3) to prevent either Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

NEW ARTICLE IX

1. Amend the old Article VIII by deleting the last clause of Paragraph 1, which is now obsolete; by deleting the portion of Paragraph 2 relating, to allocation in the Philippines of United States quotas on Philippine articles, retaining only the first sentence of the Paragraph; and by deleting all of Paragraph 3, which is probably obsolete and which is irrelevant to the general subject of the Agreement.

2. Redesignate the Article as "Article IX".

The new Article IX would read as follows:

"ARTICLE IX

"1. Upon the taking effect of this Agreement the provisions thereof placing obligations on the United States: (a) if in effect as laws of the United States at the time this Agreement takes effect, shall continue in effect as laws of the United States during the effectiveness of the Agreement; or (b) if hot so in effect at the time the Agreement takes effect, shall take, effect and continue in effect as laws of the United States during the effectiveness of the Agreement. The Philippines will continue in effect as laws of the Philippines, during the effectiveness of this Agreement, the provisions thereof placing obligations on the Philippines.

"2. The United States and the Philippines will promptly enact, and shall keep in effect during the effectiveness of this Agreement, such legislation as may be necessary to supplement the laws of the United States and the

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Philippines, respectively, referred to in Paragraph 1 of this Article, and to implement the provisions of such laws and the provisions of this agreement between the United States of America and the Philippines, respectively.

NEW ARTICLE X.

1. Amend the old Article IX by adding a provision for consultation not later than July 1, 1971, as to joint problems which may arise in anticipation of the termination of the Agreement.

2. Redesignate the Article as "Article X".

The new Article X would read as follows:

"ARTICLE X

"The United States and the Philippines agree to consult with each other with respect to any questions as to the interpretation or the application of this Agreement, concerning which either Government may make representations to the other. Not later than July 1, 1971, the United States and the Philippines agree to consult with each other as to Joint problems which may arise as a result or in anticiption of the termination of this Agreement.

NEW ARTICLE XI

1. Amend the old Article X to delete Paragraphs 1 and 3, which are obsolete, and Paragraph 4, the substance of which in part has been incorporated in a new Article (Article VII).

2. Redesignate the Article as Article XI

Article XI would read as follows:

"ARTICLE XI

> "1. This Agreement shall have no effect after July 3, 1974. It may be terminated by either the United States or the Philippines at any time, upon not less than five years' written notice. If the President of the United States or the President of the Philippines determines and proclaims that the other country has adopted or applied measures or practices which would operate to nullify or impair any right or obligation provided for in this Agreement, then the Agreement may be terminated upon not less than six months written notice.
>
> "2. This Agreement, which revises and replaces the agreement between the United States of America and the Republic of the Philippines concerning trade and related matters during a transitional period following the institution of Philippine Independence, signed at Manila on July 4, 1946, shall enter into force on January 1, 1956.

In recommending to their respective Governments the foregoing revisions as the basis of an agreement amending the Trade Agreement of July 4, 1946, the two Delegations will also recommend that, following consideration of the recommendations, negotiations be resumed looking forward the early conclusion of an agreement.

In witness whereof the Chairmen of the Delegations of the United States of America and the Republic of the Philippines hereby sign these proceedings in the English language.

DONE in duplicate at Washington, this 15th day of December, one thousand nine hundred and fifty-four.

FOR THE DELEGATION OF THE UNITED SATES OF AMERICA

FOR THE PHILIPPINE ECONOMIC MISSION

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AMENDMENT TO PROTOCOL OF THE AGREEMENT

1. Amend Paragraph 1 of the Protocol to include additional description of the terms "United States article" and "Philippine article", at the end of Sub-paragraphs (e) and (f), respectively.

As amended, Subparagraphs (e) and (f) would read as follows:

> "(e) The term 'United States article' means an article which is the product of the United States, unless in the case of an article produced with the use of materials imported into the United States from any foreign country (except the Philippines) the aggregate value of such imported materials at time of importation into the United States was more than twenty per centum of the value of the article imported into the Philippines, the value of such article to be determined in accordance with and as of the time provided by, the customs laws of the Philippines in effect at the time of importation of such article. As used in this Subparagraph the term 'value' when used in reference to a material imported into the United States, includes the value of the material ascertained under the customs laws of the United States in effect at the time of importation into the United States, and, if not included in such value, the cost of bringing the material to the United States, but does not include the cost of landing it at the port of importation, or customs duties collected in the United States. For the purposes of this Subparagraph any imported material, used in the production of an article in the United States, shall be considered as having been used in 'the production of an article subsequently produced in the United States, which is the product of a chain of production in the United States in the course of which an article, which is the product of one stage of the chain, is used by its producer or another person, in a subsequent stage of the chain, as a material in the production of another article. It is understood that 'United States articles' do not lose their status as such, for the purpose of Philippine tariff preferences, by reason of being imported into the Philippines from a country other than the United States or from an insular possession of the United States or by way or via such a country or insular possession.
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> "(f) The term 'Philippine article' means an article which is the product of the Philippines, unless, in the case of an article produced with the use of materials imported into the Philippines from any foreign country (except the United States) the aggregate value of such imported materials at the time of importation into the Philippines was more than twenty per centum of the value of the article imported into the United States, the value of such article to be determined in accordance with, and as of the time provided by, the customs laws of the United States in effect at the time of importation of such article. As used in this Subparagraph the term 'value', when used in reference to a material imported into the Philippines, includes the value of the material ascertained under the customs laws of the Philippines in effect at the time of importation into the Philippines, and, if not included in such value, the cost of bringing the material to the Philippines, but does not include the cost of landing it at the port of importation, or customs duties collected in the Philippines. For the purposes of this Subparagraph any imported material, used in the production of an article in the Philippines, shall be considered as having been used in the production of an article subsequently produced in the Philippines, which is the product of a chain of production in the Philippines in the course of which an article, which is the product of one stage of the chain, is used by its producer or another person, in a subsequent stage of the chain, as a material in the production of another article. It is understood that 'Philippine articles' do not lose their status as such, for the purpose of United States tariff preferences, by reason of being imported into the United States from a country other than the Philippines or from an insular possession of the United States or by way of or via such a country or insular possession."

WHEREAS, under the terms of the Final Act, in order that the recommendations for the revision of the 1946 Trade Agreement shall take effect and be binding between the two countries, it is essential and necessary that an agreement be concluded between the Philippines and the United States with the said Final Act as the basis thereof; Now, Therefore,

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE PHILIPPINES IN

CONGRESS ASSEMBLED:

SECTION 1. Authorization to Enter Into A Revised Agreement.—The President of the Philippines, at any time prior to January 1, 1956, is hereby authorized to enter into an agreement with the President of the United States for the revision of the 1946 Trade Agreement between the Philippines and the United States on the basis of the Final Act of Negotiations, which was signed at Washington, D. C. on December 15, 1954.

SEC. 2. Modification of Text of Revised Agreement.—The text of the revised agreement, which is embodied in the Final Act and set forth in the fourth paragraph of the enabling clauses of this Act, may be modified before such agreement is signed, but only—

(A) To the extent necessary

(1) For correction of minor errors,

(2) For correction of references to or Pro Forma Insertion of Cited Laws; and/or

(B) If such modifications are merely changes in style or form.

SEC. 3. Proclamation of Revised Agreement.—If the revised agreement has been entered into prior to January 1, 1956, the President of the Philippines shall so proclaim, and such agreement shall be effective in, and binding on, the Philippines in accordance with the terms thereof.

SEC. 4. Date of Effectivity.—This Act shall take effect upon its approval.

Approved, June 18, 1955.

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